ance rate, and although a liability somewhat penal in nature where the injury is accidental, it would work no injustice if uniformly imposed. A fund to compensate totally disabled workmen, derived from employers of workmen leaving no dependents, has been upheld under a more liberal constitutional authorization (State Indust. Comm. v. Newman (1918) 222 N. Y. 363). The unconstitutionality of a legislative act, taking away the right of the personal representative to recover *damages* for death and giving this to the Commission where there are no dependents, may be explained by the fact that the right so dealt with was created by the state constitution itself.

An interesting problem in evidence of legislative intent is also presented by this case. It is well known that the reasons or debates of legislators may not be invoked to show legislative purpose, while the history and nature of the evil to be remedied may. The present case, however, seems to be unique in presenting a reliance upon the statements of the proponents of the constitutional amendment, as contained in pamphlets which are officially provided for the voters. These state the purposes and arguments for and against measures referred for popular approval. The omission to mention in these statements such a fund as here proposed by the legislature is deemed by the court to preclude its authorization. It is apparent that the adoption of this rule will provide a handy aid to the courts. It is equally apparent, however, that there is a danger of strict application, which would forbid any attempt to apply such legislation to new or unusual situations, though such might be highly desirable, merely because the proponent had committed the sin of omitting to refer to them.

WORKMEN'S COMPENSATION ACT: LIABILITY OF EMPLOYER FOR MEDICAL OR SURGICAL SERVICES TO AN INJURED EMPLOYEE—An injured workman relied upon his employer's physicians for three and one-half years without permanent relief. On the advice of another physician he then demanded an operation and was refused. Nine months later he submitted to successful operations at the hand of the advising physician. *Held:* that an award by the Commission to the workman of the expenses of these operations was valid, although the employer was willing to continue the previous services and his physicians were acting in good faith. *Union Iron Works v. Industrial Accident Commission,* Mar. 3, 1922, 37 Cal. App. Dec. 531, rehearing granted, May 1, 1922.

The California Act is similar to that of many other states in providing that the employer shall furnish such surgical and hospital treatment as may "reasonably be required" to cure or relieve the effects of the injury, "and in case of neglect or refusal seasonably to do so the employer shall be liable for the reasonable expenses." (Workmen's Compensation Insurance & Safety Act, sec. 15a.) As the employer is to "foot the bills," the tendency both of the acts imposing liability and of the courts in construing them has been to place a high degree of choice, as to the place and mode of providing the necessary services, in his hands. (See Cal. Stats. 1919, Ch. 471, Sec. 9; Leadbettor v. Ind. Acc. Com. (1918) 179 Cal. 468, 177 Pac. 449; also L. R. A. 1916-A, 261 n.) A mere statement that he is willing to provide these services has been held insufficient (Panusuk's Case, (1914) 217 Mass. 589, 105 N. E. 368—foreigner did not understand the notice); emergency service may be

obtained anywhere (Milwaukee v. Miller (1913) 154 Wis. 652, 144 N. W. 188). However, where the employer designates physicians these should be consulted if possible (In re Davidson (1917) 228 Mass, 257, 117 N. E. 310; Mass. Bonding & Ins. Co. v. Pillsbury (1915) 170 Cal. 767, 151 Pac. 419). In the present case the court notes the apparent good faith and reasonableness of the refusal to operate, but states that in view of the successful result of the operations, it cannot be denied that they were "necessary," and the employer guilty of "neglect and refusal" under the Act.

It is well settled that the workman loses compensation by an unreasonable refusal to submit to treatment, where in the opinion of the commission, based on expert advice, the risk is inconsiderable in view of the seriousness of the injury (28 R. C. L. 815). The result of the present case approaches the formulation of a converse rule where the employer refuses to provide the treatment. There is, however, the evident and complicating factor, that the employer's physicians were undoubtedly competent and were rendering in good faith what they deemed to be "reasonable" and proper treatment. In support of the result obtained, the social insurance theory of the Act, the wide powers granted the Commission in determining "reasonableness," and the extended but fruitless reliance upon the employer, may be urged. The very human disinclination to submit to operations unless absolutely necessary, and the possibility of an unfavorable result throwing the expense upon the employee would seem a sufficient protection for the employer from a multiplicity of operations. There is also a tendency on the part of the courts to defer to the wishes of the workman where the matter concerns his own body on the one hand, and the employer's money on the other, particularly where the result either way is at all debatable by experts. Cf. Marshall v. Ransom Concrete Co. (1917) 33 Cal. App. 782, 786, 166 Pac. 846. On the other hand, if a rule is established by the principal case, the question immediately arises, how far can the workman go? If the employer were giving the best services available in the locality, should the workman be allowed to charge the employer with the services of a unique foreign specialist?